IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

SUMMONS FOR JUDGMENT NO.581 OF 2006
IN
SUMMARY SUIT NO.1675 OF 2006

Vinod Doshi, Sole Proprietor of
M/s. Printjet Microfluids. ...Plaintiff.
Vs.
Nikita International. ...Defendant.
....
Mr. Lancelot Lewis for the Plaintiff.
Mr. K. K. Tiwari i/b. K.R. Tiwari & Co. for the Defendant.
.....

CORAM : DR.D.Y.CHANDRACHUD, J.
26th March 2007.

P.C.:

This Summons for Judgment has been placed for hearing together with Summons for Judgment 577 of 2006 in which the defence raised on behalf of the Defendant has already been evaluated. Both the Learned Counsel are agreed that the facts are similar. The Plaintiff sold, supplied and delivered 50 Kilograms of "Silicon follower jotter white", a type of ink, under a delivery challan and an invoice dated 3rd June 2003. Both the invoice and delivery challan bear an acknowledgement in token of receipt by the Defendant.

The defence is that the material was delivered to the

Defendant by a representative Shri S.D. Gavade of a Company by the name of German Ink Productions (India) Pvt. Ltd. The Defendant, however, accepted in para 8 of the reply that the material was sold, supplied and delivered under the invoice and delivery challan of the Plaintiff. In the circumstances, the defence that the material was returned not to the Plaintiff but to a third party cannot be valid or tenable. Nonetheless, having regard to the facts and circumstances of the case, I am of the view that leave to defend the suit should be granted to the Defendant, in the interests of justice, subject to the deposit of an amount of Rs.42,500/- being the principal amount of the invoice. Upon deposit, the Defendant would be at liberty to file its Written Statement within a period of eight weeks. The suit shall then be transferred to the list of commercial causes.

Liberty to the Plaintiff to apply in the event that the Defendant fails to deposit the amount.

The Summons for Judgment is disposed of.

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